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11 BANK DELAWARE

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

CYNTHIA DUNCAN,

Case No: 8:24-cv-01970

Plaintiff,

**DEFENDANT BARCLAYS BANK
DELAWARE'S ANSWER AND
AFFIRMATIVE DEFENSES TO
COMPLAINT**

v.
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EXPERIAN INFORMATION
SOLUTIONS, INC. EQUIFAX
INFORMATION SERVICES, LLC;
BARCLAYS BANK DELAWARE;
CAPITAL ONE, N.A., U.S. BANK, N.A.
and AMERICAN FIRST FINANCE,
LLC,

Defendants.

Defendant Barclays Bank Delaware ("Barclays"), by counsel, hereby answers the Complaint of Plaintiff Cynthia Duncan ("Plaintiff"), and sets forth its defenses, stating as follows:

INTRODUCTION¹

1. The allegations in Paragraph 1 are conclusions of law to which no response is required; to the extent a response is required, Barclays denies the

¹ Barclays uses the headings listed in the Plaintiff's Complaint for clarity purposes only and does not admit the accuracy of those headings.

1 allegations and denies violating the Fair Credit Reporting Act, 15 U.S.C. §1681, *et seq.*
2 (“FCRA”).

3 2. To the extent that the allegations in Paragraph 2 are directed toward
4 entities other than Barclays, no response is required. To the extent a response is
5 required to those allegations, the allegations of Paragraph 2 are conclusions of law and
6 are denied.

7 3. To the extent that the allegations in Paragraph 3 (b)-(e) are directed toward
8 entities other than Barclays, no response is required. To the extent a response is
9 required to Paragraph 3(a), the allegations are denied.

10 4. As the allegations in Paragraph 4 are directed toward entities other than
11 Barclays, no response from Barclays is required.

12 5. To the extent that the allegations in Paragraph 5 are directed toward
13 entities other than Barclays, no response is required. To the extent a response is
14 required to those allegations, the allegations of Paragraph 5 are conclusions of law and
15 are denied.

16 6. To the extent that the allegations in Paragraph 6 are directed toward
17 entities other than Barclays, no response is required. To the extent a response is
18 required to those allegations, the allegations of Paragraph 6 are conclusions of law and
19 are denied.

20 7. To the extent that the allegations in Paragraph 7 are directed toward
21 entities other than Barclays, no response is required. To the extent a response is
22 required to those allegations, Barclays lacks knowledge or information sufficient to
23 form a belief as to the truth of the allegations and, on that basis, denies them.

24 8. To the extent that the allegations in Paragraph 8 are directed toward
25 entities other than Barclays, no response is required. To the extent a response is
26 required to those allegations, the allegations of Paragraph 8 are conclusions of law and
27 are denied.

1 JURISDICTION AND VENUE

2 9. Barclays incorporates and restates its responses to each of the above
3 paragraphs as if fully set forth herein.

4 10. As to the allegations of Paragraph 10, Barclays does not challenge
5 personal jurisdiction. Barclays reserves the right to compel arbitration pursuant to the
6 terms of its Cardholder Agreement with the Plaintiff.

7 11. To the extent that the allegations in Paragraph 11 are directed toward
8 entities other than Barclays, no response is required. To the extent a response is
9 required to those allegations, the allegations are conclusions of law and are denied.

10 GENERAL ALLEGATIONS

11 12. To the extent that the allegations in Paragraph 12 are directed toward
12 entities other than Barclays, no response is required. To the extent a response is
13 required to those allegations, the allegations are conclusions of law and are denied.

14 13. To the extent that the allegations in Paragraph 13 are directed toward
15 entities other than Barclays, no response is required. To the extent a response is
16 required to those allegations, the allegations are conclusions of law and are denied.

17 FICO, Inc.

18 14. The allegations in Paragraph 14 are conclusions of law and are denied.

19 15. The allegations in Paragraph 15 are conclusions of law and are denied.

20 16. The allegations in Paragraph 16 are conclusions of law and are denied.

21 17. The allegations in Paragraph 17 are conclusions of law and are denied.

22 18. The allegations in Paragraph 18 are conclusions of law and are denied.

23 19. The allegations in Paragraph 19 are conclusions of law and are denied.

24 20. The allegations in Paragraph 20 are conclusions of law and are denied.

25 21. The allegations in Paragraph 21 are conclusions of law and are denied.

26 22. The allegations in Paragraph 22 are conclusions of law and are denied.

27 23. The allegations in Paragraph 23 are conclusions of law and are denied.

- 1 24. The allegations in Paragraph 24 are conclusions of law and are denied.
- 2 25. The allegations in Paragraph 25 are conclusions of law and are denied.
- 3 26. The allegations in Paragraph 26 are conclusions of law and are denied.
- 4 27. The allegations in Paragraph 27 are conclusions of law and are denied.
- 5 28. The allegations in Paragraph 28 are conclusions of law and are denied.
- 6 29. The allegations in Paragraph 29 are conclusions of law and are denied.
- 7 30. The allegations in Paragraph 30 are conclusions of law and are denied.
- 8 31. The allegations in Paragraph 31 are conclusions of law and are denied.

9 **Metro 2**

- 10 32. The allegations in Paragraph 32 are conclusions of law and are denied.
- 11 33. The allegations in Paragraph 33 are conclusions of law and are denied.
- 12 34. The allegations in Paragraph 34 are conclusions of law and are denied.
- 13 35. The allegations in Paragraph 35 are conclusions of law and are denied.
- 14 36. The allegations in Paragraph 36 are conclusions of law and are denied.
- 15 37. The allegations in Paragraph 37 are conclusions of law and are denied.
- 16 38. The allegations in Paragraph 38 are conclusions of law and are denied.
- 17 39. The allegations in Paragraph 39 are conclusions of law and are denied.
- 18 40. The allegations in Paragraph 40 are conclusions of law and are denied.
- 19 41. The allegations in Paragraph 41 are conclusions of law and are denied.
- 20 42. The allegations in Paragraph 42 are conclusions of law and are denied.
- 21 43. The allegations in Paragraph 43 are conclusions of law and are denied.
- 22 44. The allegations in Paragraph 44 are conclusions of law and are denied.

23 **Consumer Information Indicator**

- 24 45. The allegations in Paragraph 45 are conclusions of law and are denied.
- 25 46. The allegations in Paragraph 46 are conclusions of law and are denied.
- 26 47. The allegations in Paragraph 47 are conclusions of law and are denied.
- 27 48. The allegations in Paragraph 48 are conclusions of law and are denied.

1 49. The allegations in Paragraph 49 are conclusions of law and are denied.
2 50. The allegations in Paragraph 50 are conclusions of law and are denied.
3 51. The allegations in Paragraph 51 are conclusions of law and are denied.
4 52. The allegations in Paragraph 52 are conclusions of law and are denied.
5 53. The allegations in Paragraph 53 are conclusions of law and are denied.
6 54. The allegations in Paragraph 54 are conclusions of law and are denied.
7 55. The allegations in Paragraph 55 are conclusions of law and are denied.

8 **Plaintiff's Bankruptcy**

9 56. As to the allegations in Paragraph 56, Barclays lacks knowledge or
10 information sufficient to form a belief as to the truth of the allegations and, on that
11 basis, denies them.

12 57. As to the allegations in Paragraph 57, Barclays lacks knowledge or
13 information sufficient to form a belief as to the truth of the allegations and, on that
14 basis, denies them.

15 58. To the extent that the allegations in Paragraph 58 are directed in part
16 toward entities other than Barclays, no response is required. To the extent that the
17 allegations of Paragraph 58 are directed to Barclays, Barclays lacks knowledge or
18 information sufficient to form a belief as to the truth of the allegations and, on that
19 basis, denies them.

20 59. The allegations in Paragraph 59 are directed to other Parties in this matter.
21 No response is necessary from Barclays.

22 **Plaintiff's Credit Report**

23 60. Barclays lacks knowledge or information sufficient to form a belief as to
24 the truth of the allegations of Paragraph 60 and, on that basis, denies them.

25 61. Barclays lacks knowledge or information sufficient to form a belief as to
26 the truth of the allegations of Paragraph 61 and, on that basis, denies them.

1 62. To the extent that the allegations in Paragraph 62 are directed in part
2 toward entities other than Barclays, no response from Barclays is required. To the
3 extent a response is required, Barclays lacks knowledge or information sufficient to
4 form a belief as to the truth of the allegations of Paragraph 62 and, on that basis, denies
5 them.

6 63. Barclays lacks knowledge or information sufficient to form a belief as to
7 the truth of the allegations of Paragraph 63 and, on that basis, denies them.

8 64. Barclays lacks knowledge or information sufficient to form a belief as to
9 the truth of the allegations of Paragraph 64 and, on that basis, denies them.

10 65. The allegations in Paragraph 65 are directed in part toward entities other
11 than Barclays and require no response. To the extent a response is required, Barclays
12 lacks knowledge or information sufficient to form a belief as to the truth of the
13 allegations of Paragraph 65 and, on that basis, denies them.

14 66. Barclays lacks knowledge or information sufficient to form a belief as to
15 the truth of the allegations of Paragraph 66 and, on that basis, denies them.

16 67. The allegations in Paragraph 67 are directed in part toward entities other
17 than Barclays and require no response. To the extent a response is required, Barclays
18 lacks knowledge or information sufficient to form a belief as to the truth of the
19 allegations of Paragraph 67 and, on that basis, denies them.

20 **Damages**

21 68. The allegations in Paragraph 68 are conclusions of law and are denied.

22 69. Barclays lacks knowledge or information sufficient to form a belief as to
23 the truth of the allegations of Paragraph 69 and, on that basis, denies them.

24 70. To the extent that the allegations in Paragraph 70 are directed in part
25 toward entities other than Barclays, no response from Barclays is required. To the
26 extent a response is required, the allegations in Paragraph 70 are conclusions of law
27 and are denied.

1 71. To the extent that the allegations in Paragraph 71 are directed in part
2 toward entities other than Barclays, no response from Barclays is required. To the
3 extent a response is required, the allegations in Paragraph 71 are conclusions of law
4 and are denied.

5 72. To the extent that the allegations in Paragraph 72 are directed in part
6 toward entities other than Barclays, no response from Barclays is required. To the
7 extent a response is required, the allegations in Paragraph 72 are conclusions of law
8 and are denied.

FIRST CAUSE OF ACTION

(Violation of the Fair Credit Reporting Act 15 U.S.C. § 1681e(b))

Against Defendants

Experian, Equifax, and TransUnion- Failure to Assure Credit Reporting Accuracy.

73. Barclays incorporates and restates its responses to each of the above paragraphs as if fully set forth herein.

74. The allegations in Paragraph 74 are directed to other parties in this action and require no response from Barclays.

75. The allegations in Paragraph 75 are directed to other parties in this action and require no response from Barclays.

76. The allegations in Paragraph 76 are directed to other parties in this action and require no response from Barclays.

77. The allegations in Paragraph 77 are directed to other parties in this action and require no response from Barclays.

78. The allegations in Paragraph 78 are directed to other parties in this action and require no response from Barclays.

79. The allegations in Paragraph 79 are directed to other parties in this action and require no response from Barclays.

1 **Willfulness**

2 80. The allegations in Paragraph 80 are directed to other parties in this action
3 and require no response from Barclays.

4 81. The allegations in Paragraph 81 are directed to other parties in this action
5 and require no response from Barclays.

6 82. The allegations in Paragraph 82 are directed to other parties in this action
7 and require no response from Barclays.

8 83. The allegations in Paragraph 83 are directed to other parties in this action
9 and require no response from Barclays.

10 84. The allegations in Paragraph 84 are directed to other parties in this action
11 and require no response from Barclays.

12 85. The allegations in Paragraph 85 are directed to other parties in this action
13 and require no response from Barclays.

14 86. The allegations in Paragraph 86 are directed to other parties in this action
15 and require no response from Barclays.

16 87. The allegations in Paragraph 87 are directed to other parties in this action
17 and require no response from Barclays.

18 88. The allegations in Paragraph 88 are directed to other parties in this action
19 and require no response from Barclays.

20 89. The allegations in Paragraph 89 are directed to other parties in this action
21 and require no response from Barclays.

22 90. The allegations in Paragraph 90 are directed to other parties in this action
23 and require no response.

24 91. The allegations in Paragraph 91 are directed to other parties in this action
25 and require no response from Barclays.

26 92. The allegations in Paragraph 92 are directed to other parties in this action
27 and require no response from Barclays.

1 93. The allegations in Paragraph 93 are directed to other parties in this action
2 and require no response from Barclays.

SECOND CAUSE OF ACTION

(Violation of the Fair Credit Reporting Act 15 U.S.C. § 1681s-2(b)
Against Defendants

Barclays, Capital One, Citi, U.S. Bank, and American First- Failure to Reinvestigate.

94. Barclays incorporates and restates its responses to each of the above paragraphs as if fully set forth herein.

95. The allegations in Paragraph 95 are conclusions of law and are denied.

96. The allegations in Paragraph 96 are directed in part toward entities other than Barclays and require no response. To the extent a response is required to those allegations, the allegations in Paragraph 96 are conclusions of law and are denied.

97. The allegations in Paragraph 97 are directed in part toward entities other than Barclays and require no response. To the extent a response is required to those allegations, the allegations in Paragraph 97 are denied.

98. The allegations in Paragraph 98 are directed in part toward entities other than Barclays and require no response. To the extent a response is required to those allegations, the allegations in Paragraph 98 are conclusions of law and are denied.

99. The allegations in Paragraph 99 are directed in part toward entities other than Barclays and require no response. To the extent a response is required to those allegations, the allegations in Paragraph 99 are conclusions of law and are denied.

100. The allegations in Paragraph 100 are directed in part toward entities other than Barclays and require no response. To the extent a response is required to those allegations, the allegations in Paragraph 100 are denied.

1 101. The allegations in Paragraph 101 are directed in part toward entities other
2 than Barclays and require no response. To the extent a response is required to those
3 allegations, the allegations in Paragraph 101 are conclusions of law and are denied.

4 102. The allegations in Paragraph 102 are directed in part toward entities other
5 than Barclays and require no response. To the extent a response is required to those
6 allegations, the allegations in Paragraph 102 are conclusions of law and are denied.

7 103. The allegations in Paragraph 103 are directed in part toward entities other
8 than Barclays and require no response. To the extent a response is required to those
9 allegations, the allegations in Paragraph 103 are denied.

10 104. The allegations in Paragraph 104 are directed in part toward entities other
11 than Barclays and require no response. To the extent a response is required to those
12 allegations, the allegations in Paragraph 104 are conclusions of law and are denied.

13 105. The allegations in Paragraph 105 are directed in part toward entities other
14 than Barclays and require no response. To the extent a response is required to those
15 allegations, the allegations in Paragraph 105 are conclusions of law and are denied.

16 **Experian, Equifax, and TransUnion- Failure to Reinvestigate Disputed
17 Information.**

18 106. Barclays incorporates and restates its responses to each of the above
19 paragraphs as if fully set forth herein.

20 107. The allegations in Paragraph 107 are directed in part toward entities other
21 than Barclays and require no response from Barclays.

22 108. The allegations in Paragraph 108 are directed in part toward entities other
23 than Barclays and require no response from Barclays.

24 109. The allegations in Paragraph 109 are directed in part toward entities other
25 than Barclays and require no response from Barclays.

26 110. The allegations in Paragraph 110 are directed in part toward entities other
27 than Barclays and require no response from Barclays.

111. The allegations in Paragraph 111 are directed in part toward entities other than Barclays and require no response from Barclays.

112. The allegations in Paragraph 112 are directed in part toward entities other than Barclays and require no response from Barclays.

113. The allegations in Paragraph 113 are directed in part toward entities other than Barclays and require no response from Barclays.

114. The allegations in Paragraph 114 are directed in part toward entities other than Barclays and require no response from Barclays.

115. The allegations in Paragraph 115 are directed in part toward entities other than Barclays and require no response from Barclays.

116. The allegations in Paragraph 116 are directed in part toward entities other than Barclays and require no response from Barclays.

THIRD CAUSE OF ACTION

(Violation of the Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(4))

Against Defendants Experian, Equifax, TransUnion)

Experian, Equifax, and TransUnion- Failure to Review and Consider All Relevant Information.

117. Barclays incorporates and restates its responses to each of the above paragraphs as if fully set forth herein.

118. The allegations in Paragraph 118 are directed to other parties in this action and require no response from Barclays.

119. The allegations in Paragraph 119 are directed to other parties in this action and require no response from Barclays.

120. The allegations in Paragraph 120 are directed to other parties in this action and require no response from Barclays.

121. The allegations in Paragraph 121 are directed to other parties in this action and require no response from Barclays.

1 122. The allegations in Paragraph 122 are directed to other parties in this action
2 and require no response from Barclays.

FOURTH CAUSE OF ACTION

(Violation of the Fair Credit Reporting Act 15 U.S.C. § 1681i(a)(5)(A))
Against Defendants Experian, Equifax, TransUnion)

Experian, Equifax, and TransUnion- Failure to Delete Disputed and Inaccurate Information.

123. Barclays incorporates and restates its responses to each of the above paragraphs as if fully set forth herein.

124. The allegations in Paragraph 124 are directed to other parties in this action and require no response from Barclays.

125. The allegations in Paragraph 125 are directed to other parties in this action and require no response from Barclays.

126. The allegations in Paragraph 126 are directed to other parties in this action and require no response from Barclays.

127. The allegations in Paragraph 127 are directed to other parties in this action and require no response from Barclays.

128. The allegations in Paragraph 128 are directed to other parties in this action and require no response from Barclays.

DEMAND FOR JURY TRIAL

The Demand for Jury Trial requires no response.

PRAYER FOR RELIEF

In response to the Paragraph wherein Plaintiff purports to set forth a “Prayer for Relief,” Barclays denies that Plaintiff suffered any damages attributable to any act or omission of Barclays, Barclays denies that Plaintiff is entitled to the relief requested or

1 to any relief whatsoever, and denies all allegations not expressly admitted in the
2 foregoing.

3
4 Barclays denies any remaining allegations of the Complaint not specifically
5 admitted herein.

6
7 **DEFENSES AND AFFIRMATIVE DEFENSES**

8 Barclays hereby asserts the following defenses and affirmative defenses, without
9 conceding that it bears the burden of persuasion as to any of them.

10
11 **FIRST DEFENSE**

12
13 (Failure to State a Claim)

14 The Complaint herein, and each cause of action thereof, fails to set forth facts
15 sufficient to state a claim upon which relief may be granted against Barclays and further
16 fails to state facts sufficient to entitle Plaintiff to the relief sought, or to any other relief
17 whatsoever from Barclays.

18
19 **SECOND DEFENSE**

20
21 (Fault of Plaintiff or Others)

22 If Plaintiff suffered or sustained any loss, injury, damage or detriment, the same
23 was directly and proximately caused and contributed to by the breach, conduct, acts,
24 omissions, activities, carelessness, recklessness, negligence, and/or intentional
25 misconduct of Plaintiff or others and not by Barclays.

26
27 **THIRD DEFENSE**

28 (Failure To Mitigate Damages)

29 Plaintiff has failed to mitigate Plaintiff's alleged damages.

30
31 **FOURTH DEFENSE**

32 (Accuracy)

33 The information Barclays furnished to CRAs was accurate and not misleading.

FIFTH DEFENSE

(Reasonable Investigation)

Barclays's investigation of Plaintiff's credit disputes was reasonable. This is a complete defense to the claim for alleged violation of the FCRA.

SIXTH DEFENSE

(Independent Intervening Cause)

Barclays is informed and believes and thereon alleges that if Plaintiff sustained any of the damages alleged in the Complaint, there was an intervening, superseding cause and/or causes leading to such alleged damages and, as such, any action on the part of Barclays was not a proximate cause of the alleged damages.

SEVENTH DEFENSE

(No Damages)

Plaintiff suffered no damages as a result of an act or omission attributable to Barclays.

EIGHTH DEFENSE

(Contribution)

To the extent Plaintiff suffered any damages as alleged in the Complaint - which Barclays denies - such damages can be attributed to several causes, and the damages for this harm, if any, should be apportioned among the various causes according to the contribution of each cause to the harm sustained.

NINTH DEFENSE

(No Willful Violation)

To the extent that Barclays violated any law or duty with respect to Plaintiff - which Barclays denies - such violation was based on a fair and reasonable interpretation of the laws and Barclays's duties. As such, the alleged violations were not willful, and an award of punitive damages would be inappropriate.

TENTH DEFENSE

(Compliance)

Barclays has complied with any and all duties owed under the FCRA and is entitled to each and every defense and all limitations of liability available under those acts.

ELEVENTH DEFENSE

(Reasonable Procedures)

At all pertinent times, Barclays maintained reasonable procedures to assure maximum possible accuracy in the information it furnished regarding the subject obligation.

TWELFTH DEFENSE

(Arbitration)

Plaintiff's claims may be subject to an arbitration provision in an agreement between the parties or an addendum thereto.

THIRTEENTH DEFENSE

(Lack of Intent)

Plaintiff's FCRA claim against Barclays fails because Barclays did not have the requisite intent to violate the FCRA.

FOURTEENTH DEFENSE

(Consent/Authorization)

Plaintiff's claims are barred in whole or in part because Plaintiff consented to and/or authorized the conduct alleged in the Complaint.

FIFTEENTH DEFENSE

(Equitable Defenses)

Plaintiff's claims are barred by equitable defenses, including but not limited to, the doctrine of unclean hands, and/or estoppel.

FIFTEENTH DEFENSE

(Timeliness)

Plaintiff's claims are barred in whole or in part by the applicable statutes of limitations and/or laches.

SIXTEENTH DEFENSE

(Reasonable and Diligent Investigation)

Barclays conducted a reasonable and diligent investigation of any dispute given the circumstances and information available.

RIGHT TO ASSERT ADDITIONAL DEFENSES

Barclays reserves the right to assert additional affirmative defenses at such time and to such extent as warranted by discovery and the factual developments in this case.

DATED: November 18, 2024

HOLLAND & KNIGHT LLP

/s/ Zachary C. Frampton

Zachary C. Frampton

Attorneys for Defendant

BARCLAYS BANK DELAWARE